

**REMARKS**

Reconsideration is respectfully requested in view of any changes to the claims and the remarks herein. Please contact the undersigned to conduct a telephone interview in accordance with MPEP 713.01 to resolve any remaining requirements and/or issues prior to sending another Office Action. Relevant portions of MPEP 713.01 are included on the signature page of this amendment.

At page 2 of the Office Action the Examiner states "Claims 17-19 are rejected under 35 USC 102(e) as being clearly anticipated by Cornelissen et al." Applicant respectfully disagrees. The Examiner does not specifically identify what document is being referred to. Applicant's assume that the Examiner is referring to the article listed in the PTO-892 form attached to the Office Action as reference "U" 1997 IDRC Conference Proceedings, pages 144-147, 09/15/1997. Since reference "U" is not a U.S. Patent or a Published U.S. Patent Application, it cannot support a rejection under 35 USC 102(e) which is limited to U.S. Patents or Patent Publications. In view thereof Applicants request withdrawal of this rejection.

At page 3 of the Office Action the Examiner states "Claims 17-20 are rejected under 35 USC 102(e) as clearly being anticipated by Neijzen et al., U.S. Patent Number 5,929,956" Applicant respectfully disagrees. A United States Patent is a reference only as of its filing date. U.S. Patent Number 5,929,956 has a filing date of November 24, 1997. The present application is a Continuation of Application Serial No.: 09/154,019 file 09/18/1998 and is a Continuation-in-Part of co-pending Application Serial No.: 08/542,753 filed on 10/13/1995. Applicant is entitled to the benefit of co-pending Application No.: 08/542,753 if it contains at least one embodiment within the scope of the invention as now claimed.

A single described and enabled embodiment falling within the scope of the claim is sufficient to demonstrate a constructive reduction to

practice. *Hunt v. Treppschuh*, 523 F.2d 1386, 1389, 187 USPQ 426, 428-29 (CCPA 1975).

The CCPA in *Hunt v. Treppschuh*, 523 F.2d 1386, 1387 (C.C.P.A., 1975) further states:

The sole question is whether [the] count ... is supported in [the] parent application, which is relied on as a constructive reduction to practice. The answer depends on whether the parent application includes a disclosure of an embodiment within the count that meets the requirements of the first paragraph of 35 USC 112. *Swain v. Crittendon*, 51 CCPA 1459, 332 F.2d 820, 141 USPQ 811 (1964).

Taking Claim 1 as a proposed count of an in interference Application No.: 08/542,753 clearly contains at least one embodiment within the scope of Claim 1.

The following chart shows claim 1 and claim 2 on the left compared to a schematic diagram of the claim on the right. This shows why applicant is entitled to the benefit of co-pending Application No.: 08/542,753, filed on 10/13/1995 which shall be referred to herein as the '753 Application.

It is noted that Claim 2 specifically identifies the position of the angle dependent reflector to be between the liquid crystalline material and the second substrate. Claim 1 recites "reflecting means between said first and second substrates," that is at a location (shown as 2 in the diagram below) between locations 1 and 3. respectively. Thus the "reflecting means" can be at location 1 or 3, that is on the inside surface of the first or second substrate, or any where in between.

1. A reflective flat-panel display device comprising a display panel which is suitable for modulating an illumination beam with image information,

said panel having a light incident side

and an opposite side,

the display panel comprising a diffusing liquid crystalline material,

a first substrate on the light incident side and

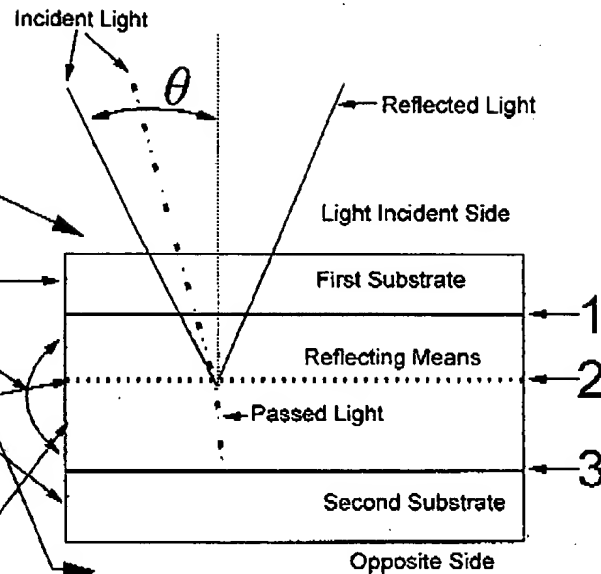
a second substrate on the opposite side

enclosing the liquid crystalline material, and

reflecting means between said first and second substrates which reflect light which is incident at an angle larger than a given angle of incidence  $\theta$  and pass light which is incident at an angle smaller than said given angle of incidence  $\theta$

said display device further comprising an absorbing element which absorbs light passed by said reflecting means.

2. A reflective flat-panel display device as claimed in claim 1, wherein the reflecting means comprise an angle-dependent reflector which is situated between the liquid crystalline material and the second substrate.



Claim 2 specifically identifies the position of the angle dependent reflector to be between the liquid crystalline material and the second substrate. Claim 1 recites "reflecting means between said first and second substrates.." that is at location 2 between locations 1 and 3, respectively above. Thus the "reflecting means" can be at location 1 or 3.

Fig. 2 of the '753 Application shows an embodiment which comes within the scope of Claim 1. Reflecting element 28 is between first substrate 12 and second substrate 14. Reflecting element 28 is disposed at position 1 in the above schematic diagram. Material 18 of Fig. 2 of the '753 Application is between the first and second substrates. Material 18 is described by the '753 Application at page 4, 7 lines from the bottom as absorbing and this material 18 is the absorbing element of Claim 1. Element 28 (referred to as a diffuser) of the '753 Application is described at page 4, line 12, as both transmitting light and reflecting light, as is the "reflecting means" recited in claim 1 of the present application. The '753 Application at page 5, lines 7-8 from the bottom, describes "diffuser 34 covered by planarizing layer 36". At page 5 lines 18-20, the '753 Application describes the element 34 of Fig. 4 of the '753 Application may be

similar to the one used in the embodiment of the invention illustrated in Fig. 2 of the '753 Application. The '753 Application describes at page 5, lines 15-17, "[b]y increasing the index of refraction of the material from which the diffuser is made, improved performance may be obtained with immersion media of higher refractive index". Thus the '753 Application describes a reflection means having a higher index of refraction material over a lower index of refraction material. Moreover, the '753 Application describes at page 4, lines 11-12, in regards to element 28 of Fig. 2 thereof, "most of the light should be diffused and transmitted rather than reflected by the diffuser." Thus the '753 Application has written description support for an angle dependent reflection means of Claim 18 and an angle dependent diffuser of Claim 20.

A media containing a higher index of refraction material over a lower index of refraction material shows total reflection for a beam of light incident at an angle greater than an angle  $\phi$  from normal incidence and transmittance at an angle less than  $\phi$ . This is well known from elementary physics. See Attachment A which pages 794 and 795 of "College Physics" by Sears and Zemansky (1960). Fig. 40-6 thereof shows light incident from a side with index of refraction  $n > n'$ . For angles greater than  $\phi$  there is reflection and for angles less than  $\phi$  there is transmittance. Thus the '753 Application has at least one embodiment within the scope of Claim 1. Moreover, as recited in Claim 19, the '753 Application describes the multilayer stack 36 and 34 of light transmitting layers, (i.e., dielectric layers) of Fig. 4 which is also as stated described to be similar to the element 28 of Fig. 2, that is, the element 28 of Fig. 2 of the '753 Application shows reflection for light beams incident at an angle larger than an angle  $\theta$  from normal and transmittance for an angle less than  $\theta$  wherein the transmitted beam is absorbed by material 18 of Fig. 2 of the '753 Application.

Thus the present application has an effective filing date before U.S. 5,929,956 and the rejection of claims 17-20 over U.S. 5,929,956 under 35 USC 102(e) should be withdrawn. For the same reason WO 98/23996 is not a

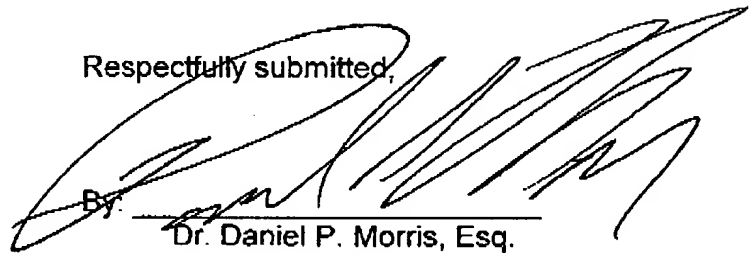
reference under 35 USC 102(b) and the rejection of Claim 20 thereover should be withdrawn.

Applicant's disagree with the Examiner's comments in regards to the Applicants 1.131 Affidavit. Notwithstanding Applicant does not have to rely on it since the '753 Application is a constructive reduction to practice of Claims 17-20.

MPEP 713.01 states in part as follows:

Where the response to a first complete action includes a request for an interview or a telephone consultation to be initiated by the examiner, ... the examiner, as soon as he or she has considered the effect of the response, should grant such request if it appears that the interview or consultation would result in expediting the case to a final action.

Respectfully submitted,



By: Dr. Daniel P. Morris, Esq.  
Reg. No. 32,053  
Phone No.: (914) 945-3217

IBM Corporation  
Intellectual Property Law Dept.  
P. O. Box 218  
Yorktown Heights, New York 10598